



## INTERIOR BOARD OF INDIAN APPEALS

Fort Sill Apache Tribe v. Anadarko Area Director, Bureau of Indian Affairs

24 IBIA 190 (09/16/1993)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

FORT SILL APACHE TRIBE,  
Appellant

v.

ANADARKO AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Affirming Decision  
:  
:  
:  
: Docket No. IBIA 93-67-A  
:  
:  
: September 16, 1993

The Fort Sill Apache Tribe (Tribe) seeks review of a March 18, 1993, decision issued by the Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), denying the Tribe's FY 1993 Planning grant application. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Pursuant to an announcement published at 57 FR 54411 (Nov. 18, 1992), the Tribe filed an application for a Planning grant with the Anadarko Agency, BIA. The application was forwarded to the Area Director on February 3, 1993, with a recommendation that it be approved.

The application was awarded a score of 67.3 by the Anadarko Area review committee. On March 18, 1993, the Area Director informed the Tribe that its application did not score high enough to be funded. The Area Director indicated that a score of 70 was necessary for funding.

Although the Area Director's letter did not inform the Tribe of the specific deficiencies or weaknesses in its application, the Tribe subsequently received that information. The Board has previously held that the failure to inform a grant applicant of the specific reasons for denial of its application is a violation of due process. See Bowen v. American Hospital Association, 476 U.S. 610, 626-27 (1986); Native Village of Venetie Tribal Government (IRA) v. Juneau Area Director, 23 IBIA 132 (1992); Quileute Tribe v. Portland Area Director, 23 IBIA 20 (1992).

The Tribe objects to the comments made by two reviewers concerning the requirement for a community survey. One reviewer stated that a survey was not documented, the other questioned how the survey was made. The Tribe correctly notes that the announcement requires a tribe to "[s]urvey or inform its reservation or community population that the tribe wishes to plan, and carry out such plans as may be developed, to make significant changes in its programs and its service delivery to Indian beneficiaries." (Emphasis added.) The Tribe contends that it "chose to inform its community population during an official meeting of the General Council held on January 14, 1993, as evidenced in Resolution FSA 93-08." Opening brief at 1.

The resolution to which the Tribe refers authorizes the submission of a Planning grant application. It states that it was adopted by the General Council at a duly called meeting, with a quorum present.

An applicant for funding under a BIA grant program bears the burden of demonstrating its eligibility under the program at the time it submits its application. Although it is possible that the Tribe's apparent discussion of its intention to apply under the program at a General Council meeting might meet the requirements of the announcement, the Tribe had the responsibility clearly to set forth how it believed it met the requirement. The Tribe did not do this.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Anadarko Area Director's March 18, 1993, decision is affirmed.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge